

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT RODRIGUEZ)	
)	
V.)	Civ. No. 04-11869-NMG
)	
UNITED STATES OF AMERICA)	
)	

GOVERNMENT'S MOTION TO ENLARGE TIME TO RESPOND
TO MOTION FOR RESENTENCING

Now comes the United States of America, by its attorneys, Michael J. Sullivan, United States Attorney, and David Hennessy, Assistant U.S. Attorney, and hereby moves to enlarge the time to respond to a motion filed in the above-captioned matter for resentencing pursuant to 18 U.S.C. §3582(c)(2) for four weeks, to December 26, 2007.

As grounds therefor, the government states as follows:

1. On information and belief, Rodriguez was indicted in 2000 for crack cocaine-related offenses and, following his guilty plea, was sentenced by this Court to 188 months' imprisonment.

2. On November 1, 2007, a proposed amendment to the U.S. Sentencing Guidelines pertaining to offenses involving crack cocaine became effective. The amendment adjusts downward by two level the base offense level assigned to each threshold quantity of crack cocaine listed in the Drug Quantity Table in U.S.S.G. §2D1.1.

3. On November 14, 2007, Delgado filed a motion to reduce his sentence in accordance with the Guideline Amendment described

in paragraph 2, pursuant to 18 U.S.C. §3582(c). Under Local Rule 7.1(B)(2), the government's response to this motion is due on November 28, 2007.

4. There has been no determination yet by the Sentencing Commission whether the Guideline Amendment is retroactive, and accordingly, whether Delgado's motion is meritorious.

5. On November 13, 2007, the Sentencing Commission conducted a public hearing to assist it in determining whether the Guideline Amendment should apply retroactively. According to newspaper accounts, the Sentencing Commission will be deciding this issue in the next few weeks.

6. The government moves for an enlargement of time to respond of four weeks, to December 26, 2007, in which period it is expected that the Sentencing Commission will have completed its public hearings and determined whether the Guideline Amendment at issue in this case applies retroactively, and in which period the government will be in a position to formulate a response to the instant motion.

7. The government has not sought a prior enlargement of time to respond.

WHEREFORE, the government respectfully moves for an enlargement of four weeks, to December 26, 2007, to file its response.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/David Hennessy
David Hennessy
Assistant U.S. Attorney

November 19, 2007

ss. Worcester

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by U.S. Mail on this 19th day of November, 2007 on Robert Rodriguez, Reg. No. 80213-038, FCI Reeves Correctional Institution, P.O. Box 1560, Peco, Texas 79772.

/s/David Hennessy
David Hennessy
Assistant U.S. Attorney